

THE HONORABLE RICARDO S. MARTINEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION,

Plaintiff,

vs.

INTERNAL REVENUE SERVICE,

Defendant.

NO. 2:15-cv-01605-RSM

**STIPULATED MOTION AND ORDER
FOR EXTENSION OF TIME TO FILE
PLAINTIFF'S RESPONSE TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

NOTE ON MOTION CALENDAR:
May 12, 2022

The above-captioned action is for declaratory and injunctive relief under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, and the Administrative Procedure Act, 5 U.S.C. § 701 et seq. On April 29, 2022, Defendant filed a Motion for Summary Judgment ("Defendant's Motion" or "Motion") with a noting date of June 27, 2022. *See* Doc. 51. Under Local Civil Rule 7(d), Plaintiff has until June 20, 2022, to file its response to Defendant's Motion. Given the broad scope of this matter, the numerous complex issues potentially subject to briefing, and the breadth of Defendant's Motion, its declarations, and exhibits, the parties stipulate to Plaintiff's request that the Court extend the deadline for Plaintiff to file its response an additional

32 days, up to and including July 22, 2022. Plaintiff anticipates that this will be its only request to extend the deadline to file its response.¹ In support of this request, the parties state the following:

1. For the last two years, the parties have worked together to narrow the issues before the Court and to resolve various matters without Court intervention. During that time, Defendant shared with Plaintiff certain draft declarations regarding Defendant's search efforts and draft *Vaughn* indices. Plaintiff's counsel provided detailed comments on those declarations and *Vaughn* indices in multiple emails to Defendant's counsel and comprehensive letters dated November 30, 2020, December 11, 2020, January 13, 2021, March 9, 2021, July 28, 2021, September 22, 2021, and November 10, 2021. In addition, Plaintiff's counsel and Defendant's counsel held several telephonic conferences regarding Plaintiff's counsel's comments.

2. Defendant's response to Plaintiff's comments included several letters, material edits to its search effort declarations, the release in full of additional records, and an expanded *Vaughn* index. In addition, while responding to certain issues raised by Plaintiff regarding Defendant's draft *Vaughn* index, Defendant discovered that its draft *Vaughn* index was incomplete. As a result, Defendant recently added approximately 4,460 additional entries to its *Vaughn* index. Defendant has represented that it withheld from production approximately 13,000 document pages in part, and 49,400 document pages in full.

3. On April 29, 2022, Defendant filed its Motion and supporting papers, totaling 691 pages. Defendant claims exemptions from disclosure under 5 U.S.C. §§ 552(b)(2), (b)(3), (b)(4), (b)(5), (b)(7)(A), and (b)(7)(C). As part of its 5 U.S.C. §§ 552(b)(5) exemption claims, Defendant withheld documents under the deliberative process privilege, the attorney-client privilege, and the work product doctrine.

¹ Defendant also intends to make a request to extend its reply deadline to Plaintiff's opposition. To ensure that an extension request for the reply deadline is made only once, Defendant intends to wait until after Plaintiff has filed its opposition to obtain a better estimate of the time needed to prepare its reply.

4. Defendant's Motion presents complex issues of fact and law regarding Defendant's search efforts and exemption claims.

5. On April 29, 2022, Defendant also filed a Motion for Summary Judgment in the parties' related FOIA matter. *See* Dkt. 2:15-cv-00369 RSM, Doc. 63.

6. Plaintiff requests additional time to fully evaluate Defendant's Motion, declarations, and exhibits (including its *Vaughn* index) to prepare its response.

5. Accordingly, the parties stipulate to Plaintiff's request that the Court extend the deadline for Plaintiff to file its response an additional 32 days, up to and including July 22, 2022.

DATED this 12th day of May, 2022.

U.S. DEPARTMENT OF JUSTICE

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ORDER

IT IS SO ORDERED this 17th day of May, 2022.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

Presented by:

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